

SD

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

FILED

SEP 20 2010

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

4 MARTHA ANN RAGULE,)
5 Plaintiff)
6)
7 v.) Civil Action No.:
8)
9 NCO FINANCIAL SYSTEMS, INC.,) COMPLAINT AND DEMAND FOR
10) JURY TRIAL
Defendant)
10) (Unlawful Debt Collection Practices)

COMPLAINT

MARTHA ANN RAGULE (“Plaintiff”), by her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant's principal place of business is in the Commonwealth of Pennsylvania and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

6. Plaintiff is a natural person residing in Albany, New York.

7. Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Also, Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

9. Defendant is a national debt collection company with corporate headquarters located at 507 Prudential Road, Horsham, Pennsylvania, 19044.

10. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiff.

11. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

PRELIMINARY STATEMENT

12. The Fair Debt Collection Practices Act (“FDCPA”) is a comprehensive statute that prohibits a catalog of activities in connection with the collection of debts by third parties. See 15 U.S.C. § 1692 *et seq.* The FDCPA

1 provides for specific consumer rights. 15 U.S.C. § 1692k. The operative
2 provisions of the FDCPA declare certain rights to be provided to or claimed by
3 debtors, forbid deceitful and misleading practices, prohibit harassing and abusive
4 tactics, and proscribe unfair or unconscionable conduct, both generally and in a
5 specific list of disapproved practices.

6 13. In particular, the FDCPA broadly enumerates several practices
7 considered contrary to its stated purpose, and forbids debt collectors from taking
8 such action. The substantive heart of the FDCPA lies in three broad prohibitions.
9 First, a “debt collector may not engage in any conduct the natural consequence of
10 which is to harass, oppress, or abuse any person in connection with the collection
11 of a debt.” 15 U.S.C. § 1692d. Second, a “debt collector may not use any false,
12 deceptive, or misleading representation or means in connection with the collection
13 of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use unfair
14 or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. §
15 1692f. The FDCPA is designed to protect consumers from unscrupulous
16 collectors, whether or not there exists a valid debt, broadly prohibits unfair or
17 unconscionable collection methods, conduct which harasses, oppresses or abuses
18 any debtor, and any false, deceptive or misleading statements in connection with
19 the collection of a debt.

20 14. In enacting the FDCPA, the United States Congress found that
21 “[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt
22 collection practices by many debt collectors,” which “contribute to the number of
23 personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of
24 individual privacy.” 15 U.S.C. § 1692a. Congress additionally found existing
25

1 laws and procedures for redressing debt collection injuries to be inadequate to
2 protect consumers. 15 U.S.C. § 1692b.

3 15. Congress enacted the FDCPA to regulate the collection of consumer
4 debts by debt collectors. The express purposes of the FDCPA are to “eliminate
5 abusive debt collection practices by debt collectors, to insure that debt collectors
6 who refrain from using abusive debt collection practices are not competitively
7 disadvantaged, and to promote consistent State action to protect consumers against
8 debt collection abuses.” 15 U.S.C. § 1692e.

9 FACTUAL ALLEGATIONS

10 16. At all pertinent times hereto, Defendant was allegedly hired to collect
11 a consumer debt allegedly owed by another person, Mr. Gregg Ragule.

12 17. Upon information and belief, the alleged debt Defendant was seeking
13 to collect arose out of transactions which were primarily for personal, family, or
14 household purposes.

15 18. Plaintiff has a checking account with Trustco Savings Bank.

16 19. The only individuals authorized to access the funds in Plaintiff's
17 checking account are Plaintiff and her Power of Attorneys, her son, Steven Ragule
18 (hereinafter “Mr. Ragule”), and her daughter, Susan Sullivan (hereinafter “Ms.
19 Sullivan”), who must act jointly.

20 20. Plaintiff does not owe a debt to Defendant or to any third party which
21 Defendant is attempting to collect.

22 21. Despite this, on or about April 28, 2010, Defendant attempted twice
23 to electronically withdraw \$1700.00 from Plaintiff's checking account without
24 authorization from Plaintiff or her power of attorneys, Mr. Ragule and Ms.
25 Sullivan. See Exhibit A, April 26, 2010, electronic check and Exhibit B,

1 Plaintiff's bank statement.

2 22. Plaintiff, however, did not have the funds in her bank account to
3 cover the amount that Defendant attempted to electronically withdraw. See
4 Exhibit B, Exhibit B, Plaintiff's bank statement.

5 23. As a result, Plaintiff incurred overdraft fees in the amount of \$70.00.
6 See Exhibit B, Plaintiff's bank statement.

7 24. Then, on or about May 3, 2010, Defendant attempted twice to
8 electronically withdraw \$1700.00 from Plaintiff's checking account, again without
9 authorization from Plaintiff or Mr. Ragule and Ms. Sullivan. See Exhibit A, April
10 26, 2010, electronic check and Exhibit B, Plaintiff's bank statement.

11 25. Initially, Plaintiff did not have the funds in her bank account to cover
12 the amount that Defendant attempted to electronically withdraw and she incurred a
13 \$35.00 overdraft charge.

14 26. Later that day, when Defendant sought to withdraw the money from
15 her bank account, Plaintiff had received her social security check, so there was
16 sufficient money in her bank account for Defendant to take \$1700.00. See Exhibit
17 B, Plaintiff's bank statement.

18 27. As a result, Plaintiff was deprived of the use of her social security
19 monies.

20 28. Upon learning that Defendant had withdrawn \$1700.00 from
21 Plaintiff's checking account, Mr. Ragule contacted Trustco Savings Bank and
22 advised them that Defendant had withdrawn this money from Plaintiff's account
23 without authorization.

24 29. On or about May 10, 2010, Trustco Savings Bank was able to have
25 returned the \$1700.00 to Plaintiff's bank account. See Exhibit B, Plaintiff's bank

1 statement.

2 30. Then, on May 19, 2010, Defendant again electronically withdrew
3 funds from Plaintiff's checking account, this time in the amount of \$1630.00,
4 without authorization from Plaintiff or Mr. Ragule and Ms. Sullivan. See Exhibit
5 C, the May 17, 2010, electronic check and Exhibit B, Plaintiff's bank statement.

6 31. Defendant was successful in withdrawing \$1630.00 from Plaintiff's
7 checking account. See Exhibit B, Plaintiff's bank statement.

8 32. Upon learning that Defendant had withdrawn \$1630.00 from
9 Plaintiff's checking account, Mr. Ragule contacted Trustco Savings Bank and
10 advised them that Defendant had withdrawn this money from
11 Plaintiff's account without authorization.

12 33. On or about May 21, 2010, Trustco Savings Bank was able to have
13 returned the \$1630.00 to Plaintiff's bank account. See Exhibit B, Plaintiff's bank
14 statement.

15 34. Thereafter, on Plaintiff's behalf, Mr. Ragule contacted Defendant
16 regarding the unauthorized withdraws from Plaintiff's checking account. See
17 Exhibit D, Mr. Ragule's June 3, 2010, letter

18 35. On or about June 15, 2010, in correspondence addressed to Mr.
19 Ragule, Defendant advised that it had issued Plaintiff a refund check in the amount
20 of \$70.00, to reimburse her for insufficient fund check fees; thereby,
21 acknowledging that it had acted wrongly in withdrawing money from Plaintiff's
22 account. See Exhibit E, Defendant's June 15, 2010, letter and check.

23 36. Defendant's conduct in taking money from Plaintiff's account
24 without her authorization caused her to contact the local police department, the
25 State's Attorney General's Office, as well as the Federal Trade Commission.

37. Further, Defendant's conduct in taking money from Plaintiff's bank account without authorization deprived her of the use and enjoyment of that money and caused her to incur over \$105.00 in bank fees. Also, Defendant's conduct necessitated Plaintiff's Power of Attorney, Mr. Ragule, traveling to Plaintiff's residence so that he could assist Plaintiff in addressing these matters on six (6) different occasions, each time driving 180 miles roundtrip and paying \$6.20 in tolls.

CONSTRUCTION OF APPLICABLE LAW

38. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). “Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages.” Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996); see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector’s legal status violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

39. The FDCPA is a remedial statute, and therefore must be construed liberally in favor of the debtor. *Sprinkle v. SB&C Ltd.*, 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts interpret it liberally. *Clark v. Capital Credit & Collection Services, Inc.*, 460 F. 3d 1162 (9th Cir. 2006). “Because the FDCPA, like the Truth in Lending Act (TILA) 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be construed liberally in favor of the consumer.” *Johnson v. Riddle*, 305 F. 3d 1107 (10th Cir. 2002).

40. The FDCPA is to be interpreted in accordance with the "least sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v.

1 Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA
2 was not “made for the protection of experts, but for the public - that vast multitude
3 which includes the ignorant, the unthinking, and the credulous, and the fact that a
4 false statement may be obviously false to those who are trained and experienced
5 does not change its character, nor take away its power to deceive others less
6 experienced.” Id. The least sophisticated consumer standard serves a dual
7 purpose in that it ensures protection of all consumers, even naive and trusting,
8 against deceptive collection practices, and protects collectors against liability for
9 bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at
10 1318.

COUNT I
**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES
ACT**

41. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Harassing, oppressing or abusing Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d;
- b. Using false, deceptive, or misleading representations or means in connection with the collection of any debt, in violation of 15 U.S.C. § 1692e;
- c. Falsely representing the character, amount, or legal status of any debt, in violation of 15 U.S.C. § 1692e(2);
- d. Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. §1692f.
- e. Collecting an amount not permitted by law, in violation of 15 U.S.C. § 1692f(1);

- 1 d. Using unfair or unconscionable means to collect or attempt to
- 2 collect any debt, in violation of 15 U.S.C. §1692f.
- 3 e. Collecting an amount not permitted by law, in violation of 15
- 4 U.S.C. § 1692f(1);
- 5 f. Defendant violated § 1692g(a) of the FDCPA by failing to
- 6 send written notification, within 5 days after its initial
- 7 communication with Plaintiff, advising Plaintiff of his right
- 8 to dispute the debt or request verification of the debt; and
- 9 g. By acting in an otherwise deceptive, unfair and
- 10 unconscionable manner and failing to comply with the
- 11 FDCPA.

12 WHEREFORE, Plaintiff, MARTHA ANN RAGULE, respectfully prays for a
13 judgment as follows:

- 14 a. All actual compensatory damages suffered pursuant to 15
- 15 U.S.C. § 1692k(a)(1);
- 16 b. Statutory damages of \$1,000.00 for each violation of the
- 17 FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- 18 c. All reasonable attorneys' fees, witness fees, court costs and
- 19 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
- 20 § 1693k(a)(3); and
- 21 d. Any other relief deemed appropriate by this Honorable Court.
- 22
- 23
- 24
- 25

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, MARTHA ANN RAGULE, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,
KIMMEL & SILVERMAN, P.C..

DATED: 9-20-10

By:

Craig Thor Kimmel
Attorney ID # 57100
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
Phone: (215) 540-8888
Fax: (215) 540-8817
Email: kimmel@creditlaw.com

SD

CIVIL COVER SHEET

10-CV-4638

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MARTHA ANN RAGULE

(b) County of Residence of First Listed Plaintiff

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

10 4838

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in This State	PTF	DEF
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> PERSONAL PROPERTY		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 480 Copyrights	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 490 Cable Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 500 Selective Service
<input type="checkbox"/> 161 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 390 Other		<input type="checkbox"/> 580 Securities Commodities Exchange
<input type="checkbox"/> 162 Contract Product Liability			<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 590 Customer Challenge
<input type="checkbox"/> 163 Franchise			<input type="checkbox"/> 720 Labor Mgmt. Relations	<input type="checkbox"/> 610 USC 3410
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	890 Other Statutes Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 515 Habeas Corpus: Accommodations	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Lienment	<input type="checkbox"/> 443 Housing	<input type="checkbox"/> 520 General	<input type="checkbox"/> 791 Emplo. Ret. Inc Security Act	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Leases to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 530 Death Penalty	<input type="checkbox"/> 792 Naturalization Application	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/ Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 793 Habeas Corpus - Alien Detainee	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/ Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 795 Prison Condition	<input type="checkbox"/> 900 Appeal of Tax Determination Under Equal Access to Justice
	<input type="checkbox"/> 448 Other Civil Rights	<input type="checkbox"/> 560 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (Specify) 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. Section 1692

Brief description of cause: Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: Yes No

VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

9-20-10

DATE

SIGNATURE OF ATTORNEY OF RECORD

SEP 20 2010

SD

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

10 4838

Address of Plaintiff: 38 Terrace Avenue, Albany, NY 12203Address of Defendant: 507 Prudential Road, Hinsdale, PA 19044Place of Accident, Incident or Transaction: 38 Terrace Avenue, Albany, NY 12203
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes No
Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes No

CIVIL (Place in ONLY CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases 15 U.S.C. § 14692
(Please specify)

- B. Diversity Jurisdiction Cases:
 1. Insurance Contract and Other Contracts
 2. Airplane Personal Injury
 3. Assault, Defamation
 4. Marine Personal Injury
 5. Motor Vehicle Personal Injury
 6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

, counsel of record do hereby certify:

Pursuant to Local Civil Rule 55.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 9-20-10Craig Thor Kimmel

Attorney at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9-20-10Craig Thor Kimmel

Attorney-at-Law

57100

SEP 20 2010

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Martha Ann Ragule

v.

NCO Financial Systems, Inc.

CIVIL ACTION

10 4838

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

9/20/10

Date

(215) 540-8888

Telephone

Craig Thor Kimmel
Attorney-at-law

800-863-1689

FAX Number

Martha Ann Ragule

Attorney for

Kimmel@creditlaw.com

E-Mail Address